IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

RFA No. 9 of 2002

Reserved on : 12.7.2007

Date of Decision : July 18th, 2007

HPSEB & another …Appellants.

Versus:

Kanshi Ram & others …Respondents.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] *No*

For the appellants : Mr. Shrawan Dogra, Advocate.

For the respondents. Mr. T. S. Chauhan, Advocate.

Sanjay Karol, J.

Appellants have assailed the award dated 17.9.2001 passed by the District Judge, Bilaspur, H. P. in Land Ref. Case No. 49 of 1999 titled as Kanshi Ram & Ors. Vs. LAC.

Vide notification dated 9.3.1998 proceedings for acquisition of land of the claimants / respondents, measuring 4 biswas comprised in Khasra No. 617/412/279/1, situate in village Khater, Tehsil Sadar, District Bilaspur, for the public purpose, namely, construction of 132 K.V. Transmission Line from Kangu to Brmana were initiated by the respondents under

---

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as ' the Act'). In terms of the award dated 3.6.1999, the market value of the land assessed and payable to the petitioners-respondents was Rs.28,000/- for 4 biswas of land (Rs.7,000/- per biswa). Feeling aggrived of the same, a reference petition under Section 18 of the Act, was made, which has been decided in terms of the impugned award. The Court below enhanced the said compensation from Rs.28,000/- to Rs.73,200/-.

Learned counsel for the appellants has vehemently argued that enhancement of the compensation is highly excessive and grossly disproportionate to the fair value of the land whereas learned counsel for the respondents has supported the award based on the reasonings given in the award.

I have also perused the record.

In support of their claim, the claimants have produced Shri Mani Ram (PW-2) and Shri Anwar Hussain (PW-3) to prove the sale deed Ext.PA dated 16.7.1997 whereby one biswa of land has been sold at a sum of Rs.50,000/-. Shri Nandu Ram (PW-4) has proved the second sale pertaining to two biswas of land effected on 29.4.1997 in terms of Ext. PB for a sum of Rs.51,500/-. Shri Kashmir Singh (PW-5) has proved the third sale of land pertaining to one biswa purchased from Shri Nandu Ram (PW-4) for a sum of Rs.25,000/-. The land pertaining to the aforesaid sale deeds is Banjar and uncultivable land and all

the sale deeds pertain to village Khater where the land under acquisition is also situate. This is proximity of time and place in between the land of the sale deeds and the acquired land. Even the category of land is same. From the statements of the aforesaid witnesses, it is clear that the sale transactions are bonafide and can be safely relied upon for the purpose of determining the fair market value of the land under acquisition. Both the lands i.e. land under acquisition as also the land pertaining to the sale deeds are of similar nature adjoining to each other and situate in the same village. All facilities are available and the acquired land had great potential of growth.

The market value means the price that a willing purchaser would pay to the willing seller for a property having due regards to its existing condition, with all its existing advantages and its potential possibilities when laid out in the most advantageous manner excluding any advantage due to the carrying out of the public purpose for which property is compulsorily acquired.

The average sale price of the sales in terms of Exts.PA to PC has been accepted by the District Judge also to arrive at a figure of Rs.31,625/- per biswa and after giving a deduction of 20%, he has arrived at a figure of Rs.25,300/- per biswa. There is no material on record to the contrary. The determination of market value is fair.

For the aforesaid reasons, I am of the view that the respondents have been rightly awarded the enhanced amount of compensation and there is no infirmity or perversity or illegality in the impugned award dated 17.9.2001 passed by the District Judge, Bilaspur, H. P. in Land Ref. Case No. 49 of 1999 titled as Kanshi Ram & Ors. Vs. LAC.

The appeal is accordingly dismissed.

(Sanjay Karol),
Judge.

July 18th, 2007
(rana)